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10/506,294	08/31/2004	Johannes Lenkl	3750-US/AD-13	3215
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Amanda Wittine Avery Dennison Corporation 8080 Norton Parkway, 22-D Mentor, OH 44060				
EXAMINER				
OSILE, MARK A				
ART UNIT		PAPER NUMBER		
1791				
NOTIFICATION DATE		DELIVERY MODE		
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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### Office Action Summary

**Application No.**

10/506,294

**Applicant(s)**

LENKL, JOHANNES

**Examiner**

Mark A. Osele

**Art Unit**

1791

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 17 June 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 2-6, 8-12, 14, 16-20, 23-26 and 32-39 is/are pending in the application.
- 4a) Of the above claim(s) 38 and 39 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 8, 9, 25, 33 and 34 is/are allowed.
- 6) ☒ Claim(s) 2-6, 10-12, 14, 16-20, 23, 24, 26, 32 and 35-37 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-940)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Election/Restrictions***

1. Newly submitted claims 38-39 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons:
2. Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.

Group I, claim(s) 2-6, 8-12, 14, 16-20, 23-26, 32-37, drawn to an applicator head, classified in class 428, subclass 138.

Group II, claim(s) 38-39, drawn to a method of controlling air flow through an applicator plate, classified in class 414, subclass 793.

3. The groups of inventions listed above do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons:

The invention of Seberg (U.S. Patent 3,613,208) shows the applicator plate with a plurality of wells, each well having an open end and a closed end comprising a selectively perforatable thin wall of material integral with the applicator plate.

4. The examiner has required restriction between product and process claims.

Where applicant elects claims directed to the product, and the product claims are subsequently found allowable, withdrawn process claims that depend from or otherwise require all the limitations of the allowable product claim will be considered for rejoinder.

All claims directed to a nonelected process invention must require all the limitations of an allowable product claim for that process invention to be rejoined.

In the event of rejoinder, the requirement for restriction between the product claims and the rejoined process claims will be withdrawn, and the rejoined process claims will be fully examined for patentability in accordance with 37 CFR 1.104. Thus, to be allowable, the rejoined claims must meet all criteria for patentability including the requirements of 35 U.S.C. 101, 102, 103 and 112. Until all claims to the elected product are found allowable, an otherwise proper restriction requirement between product claims and process claims may be maintained. Withdrawn process claims that are not commensurate in scope with an allowable product claim will not be rejoined. See MPEP § 821.04(b). Additionally, in order to retain the right to rejoinder in accordance with the above policy, applicant is advised that the process claims should be amended during prosecution to require the limitations of the product claims. **Failure to do so may result in a loss of the right to rejoinder.** Further, note that the prohibition against double patenting rejections of 35 U.S.C. 121 does not apply where the restriction requirement is withdrawn by the examiner before the patent issues. See MPEP § 804.01.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 38-39 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 2, 3, 5, 19, 20, 32 and 35 are rejected under 35 U.S.C. 102(b) as being anticipated by Seberg et al. (U.S. Patent 3,613,208). Seberg et al. shows an applicator head for a device having an air suction source the applicator head comprising: a unitary applicator plate having a first side, 52, a second side, 54, adapted for operative fluid communication with the air suction source, and a thickness, 16, separating the first and second sides from one another; a plurality of wells, 56, formed in the applicator plate, each well having opposing first and second ends, said first end being an open end arranged at one of the first or second sides of the applicator plate and the second end being a closed end spaced apart from the first end such that a depth of the well is less than the thickness of the applicator plate; wherein each closed end comprises a selectively perforatable thin wall of material integral with the applicator plate, such that when perforated, fluid communication is established between the first and second sides of the applicator plate through the well having the perforated wall (Figs. 7, 8), and when unperforated, the wall of material obstructs fluid communication between the first and second sides of the applicator plate through the well having the unperforated wall (Figs. 5, 6).

Regarding claims 2 and 19, the wells are regularly arranged in a raster grid configuration (Fig. 5).

Regarding claim 3, the wells are distributed over the entire plate (Fig. 5).

Regarding claims 5 and 20, the wells are arranged in rows and columns (Fig. 5).

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 2-6, 16-17, 19-20, 23, 32 and 35-37 are rejected under 35 U.S.C. 103(a) as being unpatentable over French (U.S. Patent 3,888,725) in view of Seberg et al. (U.S. Patent 3,613,208). Regarding claim 32, French shows an applicator head for a device having an air suction source the applicator head comprising: a unitary applicator plate, 67, having a first side, a second side, 54, adapted for operative fluid communication with the air suction source, and a thickness, 16, separating the first and second sides from one another; a plurality of wells, formed in the applicator plate, each well having opposing first and second ends, said first end being an open end arranged at one of the first or second sides of the applicator plate (Col. 5, lines 32-36, 54-67, Col. 6, lines 18-25). French fails to show the second end of the well being closed.

Seberg et al. shows an applicator head for a device having an air suction source the applicator head comprising: a unitary applicator plate having a first side, 52, a

second side, 54, adapted for operative fluid communication with the air suction source, and a thickness, 16, separating the first and second sides from one another; a plurality of wells, 56, formed in the applicator plate, each well having opposing first and second ends, said first end being an open end arranged at one of the first or second sides of the applicator plate and the second end being a closed end spaced apart from the first end such that a depth of the well is less than the thickness of the applicator plate; wherein each closed end comprises a selectively perforatable thin wall of material integral with the applicator plate, such that when perforated, fluid communication is established between the first and second sides of the applicator plate through the well having the perforated wall (Figs. 7, 8), and when unperforated, the wall of material obstructs fluid communication between the first and second sides of the applicator plate through the well having the unperforated wall (Figs. 5, 6). It would have been obvious to one of ordinary skill in the art at the time of the invention to make the applicator plate of French with wells having a closed, as shown by Seberg et al. because Seberg et al. teaches that the method of creating orifices in an applicator plate by drilling or punching is problematic because their small diameter and thickness of the applicator plate makes it difficult to drill or punch through the entire thickness (column 1, lines 47-54).

As to claims 2, 3, and 5, Figures 3 and 5 show how the weak locations are regularly arranged over the entire applicator surface in rows and columns.

As to claim 4, Figure 3 shows grooves extending to the applicator surface.

As to claim 6, French further shows an applicator pad, 31, coupled to the applicator surface. (See Figure 4) Also included is a mounting frame releasably connected to the applicator pad (See Figure 2).

As to claim 16, although Seberg et al. suggests grinding the surface, 54, it appears that the weak locations could be perforated by hand, such as using a hand drill, which would have a handle.

As to claim 17, the carrier plate is releasably connected to the air suction force through tubes, 103.

As to claims 19-20, the formation in Figures 3 and 5 show a pattern of closely spaced dots that amounts to a raster grid with rows and columns.

As to claim 23, the carrier plate and applicator plate in Figure 4 of French includes a space in between.

Regarding claims 36-37, French teaches that some of the wells should have a closed end while others would be perforated.

5. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over French in view of Seberg et al. as applied to claim 6 above, and further in view of Von Hofe (U.S. Patent 2,492,908). The references as combined fail to show the applicator pad to be locked to a mounting frame.

Von Hofe discloses an apparatus for holding a flexible product which is in communication with an air suction source and also comprises a locking device with a mounting frame (36) for releasably locking the applicator pad (39) to the mounting



frame. Von Hofe also includes an embodiment where an applicator pad (39) is coupled to the applicator surface of the shim (41). (See Figure 2.) It would have been obvious to one of ordinary skill in the art at the time of the invention to use replace the connecting means of the references as combined with the connecting means of Von Hofe because they are functionally equivalent alternate expedients.

6. Claims 11 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over French in view of Seberg et al. and Von Hofe as applied to claim 10 above, and further in view of Tiefel (US Patent No. 5,885,406).

While Von Hofe shows an applicator pad with a mounting frame, there is no teaching in Von Hofe with respect to a locking device which includes a spring-loaded ball. It would have been obvious to one having ordinary skill in the art at the time the invention was made that such a locking device could be used in the device of the references as combined, because, as shown in Tiefel, such a locking device is known in the art and within the purview of one of ordinary skill to use as needed.

7. Claims 14 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over French in view of Seberg et al. as applied to claim 6 above, and further in view of Wood (US Patent No. 3,377,096) or Wilson et al. (US Patent No. 5,024,574).

French discloses releasably attaching the applicator plate and the carrier plate. Alternatively the plates could be non-releasably fastened together as shown in both Wood and Wilson. It would have been obvious to one having ordinary skill in the art at

the time the invention was made to non-releasably fasten plates together by means of glue, because Wood and Wilson show that it is well known to glue surfaces together which multiple plates are used in combination on a vacuum chuck. Using glue to adhere the plates together is a functionally equivalent alternative expedient of using fasteners, both being within the purview of the artisan.

8. Claims 18 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over French in view of Seberg et al. as applied to claim 6 above, and further in view of Becker (US Patent No. 6,182,957 B1). The references as combined fail to show the applicator plate to be deformable.

Becker discloses an apparatus for holding a flexible product which is in communication with an air suction source and also includes an applicator surface with trenches having a bottom which can be perforated by a tool which is made of a harder material than the plate to provide holes through the plate in a desired configuration. The material used in Becker is plastic material, and plastic materials are known to be deformable. It would have been obvious to one of ordinary skill in the art at the time of the invention to make the applicator plate of the references as combine of a deformable material because Becker shows plastic to be a functionally equivalent material for making a suction applicator plate.

***Allowable Subject Matter***

9. Claims 8-9, 25, and 33-34 are allowed.

10. The following is a statement of reasons for the indication of allowable subject matter: None of the prior art suggests a plurality of wells having an open end of the first side, a plurality of wells having an open end on the second side and the first and second wells sharing a common thin wall. None of the prior art suggests the pad receiving means to be C-shaped guide rails.

#### ***Response to Arguments***

5. Applicant's arguments filed June 17, 2010 have been fully considered but they are not persuasive. Although the applicator plate of Seberg is not shown as selectively perforated, it is selectively perforatable. This is an argument against intended use, which is not given patentable weight in an article claim. It is noted that Crankshaw shows selective perforation of a unitary (although not integral) applicator plate with closed wells.

#### ***Conclusion***

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Craighead et al. shows a material with wells extending from one end and closed at the other end.

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark A. Osele whose telephone number is 571-272-1235. The examiner can normally be reached on M-F 10:00-6:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Philip Tucker can be reached on 571-272-1095. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Mark A Osele/  
Primary Examiner, Art Unit 1791  
September 13, 2010